

REMARKS

Independent Claim 1 has been amended to correct a minor informality that does not affect the scope thereof. Claim 4 has been amended to correct the minor informality noted by the Examiner.

Independent Claim 1 defines the invention as a tap dancing shoe that includes a shoe upper and a rigid sole including a front portion, a rear portion, a top surface, and a bottom surface. The shoe upper is secured to the top surface of the rigid sole to define a shoe cavity. A tap plate is attached to the front portion of the bottom surface of the rigid sole. A rigid heel is attached to the rear portion of the bottom surface of the sole. Lastly, a shock absorbing cushion is disposed within the shoe cavity, extending from the front portion of the top surface of the sole to the rear portion of the top surface of the rigid sole. The shock absorbing cushion is permanently secured to the top surface of the rigid sole.

The Examiner rejected Claims 1 through 4 under 35 U.S.C. 103(a) as being obvious in light of the combined teachings of the Stafford reference with either of the Esmonde reference or the Carrara reference. These rejections are respectfully traversed.

The Stafford reference discloses an open-toed shoe 10 that includes a plurality of straps 12 that are attached between an insole 16 and an outsole 18. Such a shoe structure is completely inappropriate for use as a tap shoe, as specifically claimed. Tap dancing is a very athletic endeavor that involves a significant amount of repetitive action including, among other things, emphatic striking of the toe and other portions of the foot of the wearer against the floor upon which it is used. As a result, it is critical that the tap shoe provide adequate support for the foot of the wearer. The strapped, open toe shoe structure disclosed in the Stafford reference provides virtually none of the support that would be necessary for a modern tap dancer. Furthermore, the open toed nature of the structure disclosed in the Stafford reference is wholly inappropriate for use as a tap shoe. Thus, the teachings of the Stafford reference are not relevant to the claimed tap shoe and should not be considered.

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Additionally, the Stafford reference provides no motivation whatsoever to suggest that the open-toed shoe 10 disclosed therein can or should be modified to include taps, such as shown in the Esmonde reference and the Carrara reference. Not only is there absolutely no disclosure for doing this contained in any of the references, the inherent structure of the open-toed shoe 10 disclosed in the Stafford reference teaches away from employing taps in this manner, for the reasons discussed above. Thus, the rejection must be withdrawn as improperly utilizing hindsight to piecemeal disparate references together without any teaching or motivation contained in any of the references.

The Esmonde reference and the Carrara reference merely disclose conventional tap shoe structures that do not include the shock absorbing cushion, as specifically claimed. Thus, neither of these references provide any teaching toward the claimed invention. Indeed, the lack of such teaching in these references is indicative of the need for the applicant's improved structure for a tap shoe. Accordingly, it is believed that the claimed invention is clearly patentable over the cited references.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard S. MacMillan", written over a horizontal line.

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